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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/666,801	09/21/2000	Masato Tsukada	Q60955	6884
7590 04/28/2005			EXAMINER	
Sughrue Mion Zinn MacPeak & Seas PLLC 2100 Pennsylvania Avenue N W Washington, DC 20037-3213			GRANT II, JEROME	
			ART UNIT	PAPER NUMBER
			2626	
DATE MAILED: 04/28/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/666,801

Applicant(s)

TSUKADA, MASATO

Examiner

Jerome Grant II

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**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 11 March 0205 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: 11-14.  
Claim(s) objected to: 2-5, 8 and 9.  
Claim(s) rejected: 1, 6, 7, 10 and 15.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
13. ☒ Other: See the Supplement to the Advisory attached with this communication.

JEROME GRANT II  
PRIMARY EXAMINER

### **Supplement to the Advisory**

**With respect to applicant's arguments, as found in the middle of page 12, applicant argues that Nakajima does not teach or suggest performing a color correction of a portion within a color image. The examiner strongly disagrees with this assertion. Figure 8 shows a plurality of images which includes 96 and 97 and the thumbnail of the images (91). At the top of figure 8 is a object 911. The object may consist of a photograph, text or graphics see object 910. Hence the text portion or any of the other sub-categories, is chosen as the region or area that is less than the entire image. For example, there may be text composed in a small portion of the image superimposed over a graphic image or photographic image.**

**Applicant correctly refers to col. 10, lines 60-67 regarding the section relied upon by the examiner. Figure 8, upon which this section is illustrated, shows that there are three objects within the images 96 and 97, which include graphic, photographic and text images. Hence, these objects are part of the entire image and not the image itself. Hence, Nakajima does address this limitation of the claim.**

**At the bottom of page 12, applicant argues that the selected objects are not portions of the image. This is not true. There are three distinct objects as explained at col. 10, lines 60-67 and illustrated at the top of figure 8.**

In the middle of page 12, applicant argues that Nakajima does not teach any color correction of a portion of the image as required by the claim. The examiner does not agree. Page 11 of the specification and the top portion of figure 8 explains that, "...when an object is to be adjusted... only the currently selected object is subjected to adjustment in the thumbnail 91 and images 96 and 97( col. 11, lines 1-4). The type of adjustment referred to here is discussed at col. 11, lines 4-16). Lines 7 specifically states data sorting for color process in compliance with the object forming a image. Moreover, col. 11, lines 15-49 further teaches using color process adjustments according to the selected objects. For example, in figure 5, step 65 discriminates if the object is an image. At step 68 it is discriminated whether the object is graphic and at step 69 the object is discriminated as being text. According to how the object was discriminated, each object has a unique color adjusting color parameter that is used for that object. Hence, the examiner contends that each portion of the object will have color correction performed thereon. Respectfully, applicant's contention is believed to be incorrect.

At the middle of pages 13 and 14, applicant makes the same argument and contends that there is no teaching for an extracting means for selecting a color. Nakajima specifically states at col. 11, line 17 that the color processing switch 132 selects color parameters based on address information of the current

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image. At page 13, lines 1-5, it is contemplated that tint or chroma are the adjustment color parameters that are selected from the object.

At the bottom of pages 14 and 15, applicant argues that Nakajima does not teach a means for determining a color correction parameter from memory content, an optimum color correction parameter. The examiner contends that this is not true. Nakajima teaches color adjusting parameters stored in a color parameter memory 24, see col. 11, lines 40-48. Moreover, col. 12, lines 5-7 teaches that the color adjustment is possible on an object basis, and the user performs color adjustment more in detail and obtains an optimum output. Hence, this limitation of the claim is suggested by Nakajima.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerome Grant II whose telephone number is 571-272-7463. The examiner can normally be reached on Mon.-Thur. from 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly A Williams, can be reached on 571-272-7471. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Grant II

